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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

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10 SETH MANHEIMER, an individually, and )  
11 derivatively on behalf of TRUFUSION )  
12 YOGA, LLC )

13 Plaintiff,

14 v.

15 TRUFUSION YOGA, LLC, a Nevada )  
16 Limited Liability Company, MICHAEL )  
17 BORDEN; MARTIN HINTON; )  
18 TRUFUSION LLC, a Nevada Limited )  
19 Liability Company, TRUFUSION )  
20 FRANCHISING LLC, a Nevada Limited )  
21 Liability Company, and DOES 1-10, )  
22 inclusive )

23 Defendants.

24 TRUFUSION YOGA, LLC, a Nevada )  
25 Limited Liability Company, TRUFUSION )  
26 LLC, a Nevada Limited Liability Company, )  
27 TRUFUSION FRANCHISING LLC, a )  
28 Nevada Limited Liability Company, and )  
ROES 1-10, inclusive, )

Counterclaimants,

v.

SETH MANHEIMER,

Counterdefendant.

Case No.: 2:16-cv-02186-JCM-NJK

Assigned to The Hon. James C. Mahan

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**Date of Trial: September 17-28, 2018**

1                                    **FINDINGS OF FACT, CONCLUSIONS OF LAW**  
2                                    **AND JUDGMENT**

3                                    Date of Trial: September 17<sup>th</sup>- 28<sup>th</sup>, 2018  
4

5                                    The above-entitled matter having come on before this Court for a Jury Trial on  
6 September 17<sup>th</sup>, 2018. Plaintiff/Counterdefendant Seth Manheimer (“Manheimer”),  
7 being represented by his counsel of record; Defendants TruFusion Yoga, LLC  
8 (“TRUFUSION YOGA”), Michael Borden (“Borden”), Martin Hinton (“Hinton”),  
9 TruFusion LLC (“TRU”), and TruFusion Franchising LLC (“Franchising”), by and  
10 through their respective counsel of record. The Jury having rendered a Verdict on those  
11 claims presented to the Court on September 28<sup>th</sup>, 2018. Based upon the testimony of  
12 the witnesses at trial, exhibits admitted at trial and the relevant law, the Court makes the  
13 following findings of facts and conclusions of law pursuant to Fed. R. Civ. Proc. 52(a).  
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17                                    **FINDINGS OF FACT**  
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19                                    **THE COURT HEREBY FINDS** that Plaintiff Manheimer is a resident of the  
20 State of California and is a member in Defendant TRU.  
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22                                    **THE COURT FURTHER FINDS** that Defendant TruFusion Yoga is and was at  
23 all times relevant hereto a Nevada limited liability company authorized to do business  
24 in Clark County, Nevada.  
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1       **THE COURT FURTHER FINDS** that Defendant TruFusion LLC is and was at  
2 all times relevant hereto a Nevada limited liability company authorized to do business  
3 in Clark County, Nevada.  
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5       **THE COURT FURTHER FINDS** that Defendant TruFusion Franchising is and  
6 was at all times relevant hereto a Nevada limited liability company authorized to do  
7 business in Clark County, Nevada.  
8

9       **THE COURT FURTHER FINDS** that Defendant TruFusion Yoga adopted  
10 pursuant to Chapter 86 of the Nevada Revised Statutes an Operating Agreement on July  
11 23<sup>rd</sup>, 2013 which reflected the ownership of TruFusion Yoga as of that date.  
12

13       **THE COURT FURTHER FINDS** that this matter proceeded to trial before a  
14 jury between September 17<sup>th</sup>, 2018 through September 28<sup>th</sup>, 2018, at which time the  
15 Jury entered its Verdict.  
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17       **THE COURT FURTHER FINDS** that Defendants withdrew and dismissed  
18 their Counterclaim prior to trial.  
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20       **THE COURT FURTHER FINDS** that the Jury entered a Verdict in favor of  
21 Defendant Martin Hinton on all claims brought by Plaintiff Manheimer as against  
22 Defendant Martin Hinton.  
23

24       **THE COURT FURTHER FINDS** that the Jury found that Defendants  
25 TruFusion Yoga and Michael Borden breached an oral agreement with Plaintiff  
26 Manheimer but that Plaintiff Manheimer was entitled to zero damages on that claim.  
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1       **THE COURT FURTHER FINDS** that the Jury entered a Verdict in favor of all  
2 Defendants and against Plaintiff Manheimer on his claim for breach of operating  
3 agreement.  
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5       **THE COURT FURTHER FINDS** that the Jury Verdict found in favor of  
6 Plaintiff Manheimer and against Defendant TruFusion Yoga on Plaintiff's monies owed  
7 claim and awarded Manheimer the sum of \$55,000.00 as against TruFusion Yoga.  
8

9       **THE COURT FURTHER FINDS** that the Jury answered a Special  
10 Interrogatory and found in favor of Plaintiff Manheimer owns 0.80% of Defendants  
11 TruFusion LLC, TruFusion Yoga and TruFusion Franchising.  
12

13                               **CONCLUSIONS OF LAW**  
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15       **THE COURT HEREBY FINDS** that Defendants moved pursuant to Rule 50(a)  
16 during trial for judgment as a matter of law.  
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18       **THE COURT FURTHER FINDS** pursuant to Fed. R. Civ. P. 50(a) that if a  
19 party has been fully heard on an issue during a jury trial and the court finds that a  
20 reasonable jury would not have a legally sufficient evidentiary basis to find for the party  
21 on that issue, the court may: (A) resolve the issue against the party; and (B) grant a  
22 motion for judgment as a matter of law against the party on a claim or defense that,  
23 under the controlling law, can be maintained or defeated only with a favorable finding  
24 on that issue. Judgment as a matter of law should be granted when "the evidence,  
25 construed in the light most favorable to the nonmoving party, permits only one  
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1 reasonable conclusion, and that conclusion is contrary to that of the jury." White v. Ford  
2 Motor Co., 312 F.3d 998, 1010 (9th Cir. 2002).  
3

4 **THE COURT FURTHER FINDS** that at the close of Plaintiff's case-in-chief  
5 that Plaintiff Manheimer did not have a legally sufficient evidentiary basis to find for  
6 Plaintiff Manheimer on his claim for fraud and that judgment as a matter of law shall be  
7 entered against Plaintiff Manheimer.  
8

9 **THE COURT FURTHER FINDS** that at the close of Plaintiff's case-in-chief  
10 that Plaintiff Manheimer did not have a legally sufficient evidentiary basis to find for  
11 Plaintiff Manheimer on his claim for constructive fraud and that judgment as a matter of  
12 law shall be entered against Plaintiff Manheimer on that claim.  
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15 **THE COURT FURTHER FINDS** that at the close of Plaintiff's case-in-chief  
16 that Plaintiff Manheimer did not have a legally sufficient evidentiary basis to find for  
17 Plaintiff Manheimer on his claim for breach of loyalty and that judgment as a matter of  
18 law shall be entered against Plaintiff Manheimer on that claim.  
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20 **THE COURT FURTHER FINDS** that at the close of Plaintiff's case-in-chief  
21 that Plaintiff Manheimer did not have a legally sufficient evidentiary basis to find for  
22 Plaintiff Manheimer on his claim for intentional interference with prospective economic  
23 advantage and that judgment as a matter of law shall be entered against Plaintiff  
24 Manheimer on that claim.  
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1       **THE COURT FURTHER FINDS** that at the close of Plaintiff's case-in-chief  
2 that Plaintiff Manheimer did not have a legally sufficient evidentiary basis to find for  
3 Plaintiff Manheimer on his claim for common law conspiracy.  
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5       **THE COURT HEREBY FINDS** that Defendants renewed their Motion  
6 pursuant to Rule 50(b) after the return of the Jury Verdict trial for judgment as a matter  
7 of law on Plaintiff's breach of oral agreement claim.  
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9       **THE COURT FURTHER FINDS** pursuant to Fed. R. Civ. P. 50(b) that if a  
10 party has been fully heard on an issue during a jury trial and the court finds that a  
11 reasonable jury would not have a legally sufficient evidentiary basis to find for the party  
12 on that issue, the court may: (A) resolve the issue against the party; and (B) grant a  
13 motion for judgment as a matter of law against the party on a claim or defense that,  
14 under the controlling law, can be maintained or defeated only with a favorable finding  
15 on that issue. Judgment as a matter of law should be granted when "the evidence,  
16 construed in the light most favorable to the nonmoving party, permits only one  
17 reasonable conclusion, and that conclusion is contrary to that of the jury." White v. Ford  
18 Motor Co., 312 F.3d 998, 1010 (9th Cir. 2002).  
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23       **THE COURT FURTHER FINDS** that no reasonable juror could reach the  
24 conclusion that an oral agreement was entered into by Borden with Manheimer to  
25 equalize Manheimer's stock ownership with Borden.  
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1       **THE COURT FURTHER FINDS** that judgment as a matter of law should be  
2 entered in favor of Defendants Michael Borden, TruFusion Yoga, and TruFusion  
3 Franchising and against Plaintiff Seth Manheimer on that claim for breach of oral  
4 agreement.  
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6       **THE COURT FURTHER FINDS** that declaratory judgment should be entered  
7 declaring that Plaintiff Seth Manheimer owns 0.8% of Defendant TruFusion LLC, as of  
8 September 28, 2018.  
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10       **THE COURT FURTHER FINDS** that Defendant TruFusion LLC owns 100%  
11 of Defendants TruFusion Yoga and TruFusion Franchising, and thus Plaintiff Seth  
12 Manheimer has no direct ownership in TruFusion Yoga or TruFusion Franchising.  
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15       **THE COURT FURTHER FINDS** that judgment should be entered on the jury  
16 verdict in favor of Defendants Trufusion Yoga LLC, Michael Borden and Martin  
17 Hinton on Plaintiff's claim for breach of operating agreement.  
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19       **THE COURT FURTHER FINDS** that judgment should be entered in favor of  
20 Plaintiff Seth Manheimer and against Defendant Trufusion Yoga LLC for monies owed  
21 for the loans between Plaintiff and Trufusion Yoga LLC in the sum of \$55,000.00, plus  
22 \$37,998.78 in prejudgment interest.  
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24       **THE COURT FURTHER FINDS** that Plaintiff Seth Manheimer has failed to  
25 meet his burden for an accounting and/or to prove any unjust enrichment.  
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**THE COURT FURTHER FINDS** that Plaintiff's remaining claims have not been proven and are be dismissed.

DATED May 24, 2019.

*James C. Mahan*  
THE HONORABLE JAMES C. MAHAN  
DISTRICT COURT JUDGE